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BY ECF

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The Honorable Dora L. Irizarry
Chief United States District Judge
United States District Court for the
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *United States v. Dan Zhong*
Criminal Docket No. 16-614 (DLI)

Dear Chief Judge Irizarry:

I respectfully submit this letter in further support of the defense's February 28, 2018 sealed and *ex parte* application for modification of certain provisions of the February 22, 2017 protective order restricting disclosure of documents produced by the government in discovery. (See Dkt. Nos. 37 at ¶ 3; 107). Specifically, the defense requested leave to disclose documents designated as "Sensitive Discovery Material," and information derived or prepared from those documents, to potential trial witnesses and their counsel to enable us to prepare for trial. In light of the absence of meaningful opposition by the government, the application should be granted.

By Order entered on April 6, 2018, Your Honor directed the government to "forward to chambers for filing under seal and *ex parte*, a letter setting forth the basis for its objection" to the relief sought by the defense. The Court also noted that it "is inclined to grant Defendant's request, absent a showing of good cause by the government as to why such disclosure should not be permitted, such as, for example, that it may jeopardize the safety of government witnesses or victims or the government's case."

The government has chosen not to avail itself of the opportunity to make an *ex parte* submission, expressing instead its willingness to defer to the Court's decision. Specifically, in its April 20, 2018 letter (Dkt. No. 112), the government declines to take a position with respect to the defense's application absent identification of both the materials the defense intends to disclose and the intended recipients of such disclosure. The government concedes that disclosure of "some categories of documents to some individuals would *not* pose any problem." (*Id.*; emphasis added). Although it claims that disclosure of other categories "would pose serious concerns," the government still refuses to provide any specifics, even on an *ex parte* basis.

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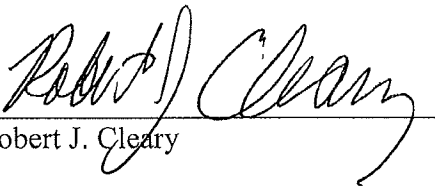
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In sum, given the government's decision not to take a position, the defense's application should be granted.

Respectfully submitted,


Robert J. Cleary

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